

AT A REGULAR MEETING AND PUBLIC HEARING OF THE BOARD OF ZONING APPEALS OF THE CITY OF HAMPTON, VIRGINIA, HELD IN THE HARDY CASH CONFERENCE ROOM, CITY HALL, 22 LINCOLN STREET, AT 5:00 P.M. ON MONDAY, **August 19, 2013.**

Present: Chairman Thomas Savage, Vice-Chairman Burnett Peters, Board Members Linda Ellis, John Pope, and Rodney Gentry. Also present were Sr. Zoning Official Jeff Conkle, Assistant City Attorney Bonnie Brown, and Recording Secretary Angela Leflett.

Chairman Savage called the meeting to order and asked that the minutes of the August 5, 2013, meeting be considered. A motion was made by Vice-Chairman Peters and seconded by Board Member Gentry that the minutes be approved as written.

A roll call vote on the motion resulted as follows:

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|----------|-------------------------------------|
| AYES: | Ellis, Gentry, Pope, Peters, Savage |
| NAYS: | None |
| ABSTAIN: | None |
| ABSENT: | None |

VA13-00016: Alton Burrell, 505 Dolphin Court, LRSN 11000115, a variance to reduce a required side yard setback from 8.5' to 7' to allow a new 10' x 14' one-story rear addition on an existing single-family dwelling.

After all witnesses were sworn in by the court reporter, Sr. Zoning Official Jeff Conkle stated that the staff recommendation regarding the application to reduce a required side yard setback from 8.5' to 7' to allow a new 10' x 14' one-story rear addition on an existing single-family dwelling is that it be denied due to the inability to meet the required criteria for a hardship as set forth in the Zoning Ordinance and the Code of Virginia.

The applicant, Mr. Burrell, presented his case to the Board.

After discussion, a motion was made by Board Member Pope and seconded by Vice-Chairman Peters that a hardship exists due to the position of the house on the lot; the variance should be approved because:

1. The strict application of the ordinance would produce undue hardship relating to the property; and
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

3. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
4. Granting of the variance is in harmony with the intended spirit of the ordinance.

A roll call vote on the motion resulted as follows:

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|----------|-------------------------------------|
| AYES: | Ellis, Gentry, Pope, Peters, Savage |
| NAYS: | None |
| ABSTAIN: | None |
| ABSENT: | None |

VA13-00017: Mercury Mall Associates, 110 Marketplace Drive, LRSN 13001511, a variance to increase the total number of allowable drive-through menu board signs from 1 to 2 to allow a second menu board sign at an existing restaurant.

After all witnesses were sworn in by the court reporter, Sr. Zoning Official Jeff Conkle stated that the staff recommendation regarding the application to increase the total number of allowable drive-through menu board signs from 1 to 2 to allow a second menu board sign at an existing restaurant is that it be denied due to the inability to meet the required criteria for a hardship as set forth in the Zoning Ordinance and the Code of Virginia.

The agents, Mr. Miller and Mr. Perry, presented the case to the Board.

After discussion, a motion was made by Board Member Ellis and seconded by Board Member Gentry that a hardship exists due to the traffic safety of the community and surrounding area and, therefore, the variance should be approved because:

1. The strict application of the ordinance would produce undue hardship relating to the property; and
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
4. Granting of the variance is in harmony with the intended spirit of the ordinance.

A roll call vote on the motion resulted as follows:

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|----------|-------------------------------------|
| AYES: | Ellis, Gentry, Pope, Peters, Savage |
| NAYS: | None |
| ABSTAIN: | None |
| ABSENT: | None |

VA13-00018: Riverdale Plaza Shopping Center, LLC, 1046 West Mercury Boulevard, LRSN 7001549, a variance to allow the use of a freestanding pylon-style sign instead of the required freestanding monument-style sign at an existing restaurant.

After all witnesses were sworn in by the court reporter, Sr. Zoning Official Jeff Conkle stated that the staff recommendation regarding the application to allow the use of a freestanding pylon-style sign instead of the required freestanding monument-style sign at an existing restaurant is that it be denied due to the inability to meet the required criteria for a hardship as set forth in the Zoning Ordinance and the Code of Virginia.

The agent, Mr. Robbins, presented his case to the Board.

Ms. McCoury, Executive Director of Coliseum Central Business Improvement District, spoke in opposition of the request.

After discussion, a motion was made by Board Member Gentry and seconded by Vice-Chairman Peters that no hardship exists and, therefore, the variance should be denied because:

1. There has been no evidence produced that the strict application of the ordinance would produce undue hardship; and
2. The hardship is shared generally by other properties in the same zoning district and the same vicinity; and
3. Authorization of the variance will be of substantial detriment to adjacent property and the character of the district will be changed by the granting of the variance; and
4. Granting of the variance is not in harmony with the intended spirit of the ordinance.

A roll call vote on the motion resulted as follows:

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|----------|-------------------------------------|
| AYES: | Ellis, Gentry, Pope, Peters, Savage |
| NAYS: | None |
| ABSTAIN: | None |
| ABSENT: | None |

Sr. Zoning Official Jeff Conkle informed the applicant that he had 30 days to appeal this decision to the Hampton Circuit Court.

There being no further business to come before the Board, the meeting was adjourned at 5:30 p.m.

